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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,579	09/22/2003	Howard Boilen	A25-017	9636

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EXAMINER

HAMILTON, ISAAC N

ART UNIT PAPER NUMBER

3724

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/667,579

Applicant(s)

BOILEN, HOWARD

Examiner

Isaac N. Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 08/01/05. These drawings are acceptable.

### ***Claim Objections***

2. The objections to the claims are hereby withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Denter et al (4,573,387), hereafter Denter. Denter discloses flat working surface 3; means for processing 5, 6, 7, 8; means for adjusting 13; side walls 24, 25; recesses shown in figures 2-4 at the bottom of the side walls; slicing blade 6; ribs 39, 40; height of ribs in figure 4; the recesses are capable of receiving a rim of a cooking utensil and of securely engaging the food processing device to the cooking utensil due to the depth of the recesses shown in figures 2-4.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-4, 7-10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeder et al (US2004/0216579 A1), hereafter Zeder, in view of Denter. Zeder discloses flat working surface 32; means for processing 76, 45, 46; means for adjusting on page 4, paragraph [0035]; side walls 12, 13; slicing blades 76, 45, 46; vertical blades 76; horizontal blade 46, 45; removable auxiliary blade 46, 45; flat horizontal blade 45; wavy horizontal blade 46. Zeder does not disclose recesses, however, Denter teaches recesses on the bottom of the side walls in figures 2-4. It would have been obvious to provide recesses in Zeder as taught by Denter in order to provide a wavy gripping surface for the user, which creates friction with a user's wet hand. Note that the depth of the recesses in Denter is sufficient to receive and securely engage a rim of a cooking utensil.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Zeder and Denter as applied to claims 1-4, 7-10, 12 and 13 above, and further in view of Ranta (6,019,050). The combination discloses everything as noted above, and discloses an upper leg 60 in Zeder, but does not disclose a lower leg. However, Ranta teaches lower leg 46. It would have been obvious to provide a lower leg in the combination as taught by Ranta in order to stabilize the apparatus when it is being supported on a surface smaller than the apparatus.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Denter and Zeder as applied to claims 1-4, 7-10, 12 and 13 above, and further in view of Doyel (4,212,431). The combination discloses everything as noted above, but does not disclose a food grating surface. However, Doyel teaches grating surface 109. It would have been obvious to replace the horizontal blade 45, 46 in Zeder with the grating surface 109 as taught by Doyel in order to increase the ways that the apparatus can manipulate food.

***Response to Arguments***

9. Applicant's arguments filed 08/01/05 have been fully considered but they are not persuasive. Applicant asserts that the depth of the recesses in Denter is not sufficient to receive and securely engage a rim of a cooking utensil. It is believed that the depth of the recess as shown in figures 2-4 are of sufficient depth. There are several cooking utensils that have rims that are thin enough to be received in the recesses in Denter, such as, microwave-safe dishes made by Ziploc. Also, in order for the recesses to securely engage the rim of the cooking utensil, the food processing device must only be capable of being laid on top of the utensil because the walls of the recesses alone provide resistance to movement of the device on top of the utensil rim. Applicant asserts that there is no teaching, suggestion or motivation to combine Denter and Zeder, however, as the applicant states, the recesses are most likely used for an additional gripping surface for a user, and it is believed that the Denter gripping surface improves the gripping surface of Zeder.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

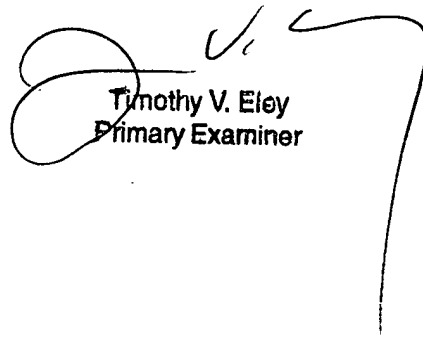
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



IH

October 16, 2005



Timothy V. Eley  
Primary Examiner